

FILED
OCT 02 2018
Clerk, U.S. District Court,
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER J. MORIGEAU,
JOHLEEN MORIGEAU, and
CONFEDERATED SALISH &
KOOTENAI TRIBES,

Defendants.

CV 18-32-M-DWM

DECREE OF FORECLOSURE
AND ORDER OF JUDICIAL SALE

On September 10, 2018, Plaintiff United States and Defendants Christopher J. Morigeau and Johleen Morigeau (collectively the “Morigeaus”) filed a Stipulation for entry of judgment, a decree of foreclosure, and an order of sale. (Doc. 17.) On September 18, 2018, the United States and Defendant Confederated Salish & Kootenai Tribes (“CSKT”) filed a Stipulation for entry of judgment, a decree of foreclosure, and an order of sale. (Doc. 18.)

The parties have stipulated, among other things, that the Morigeaus are indebted to the United States for loans in the principal amount of \$141,723.08, plus

accrued interest in the amount of \$10,128.47 as of April 24, 2017, for a combined total of \$151,851.55, (Doc. 17 at 2), that the United States is entitled to foreclose the leasehold mortgage that secures the debt, (*id.* at 2; Doc. 18 at 3), that there shall be no deficiency judgment against the Morigeaus, (Doc. 17 at 2), that CSKT did not exercise its right of first refusal, (Doc. 18 at 2), and that the foreclosure and judicial sale shall be conducted pursuant to 12 U.S.C. § 1715z-13a, the Rider for Section 184 Mortgage Leasehold, and § 4-1-104(2) of the CSKT Laws Codified, which provides that Title 71, Chapter 1, Part 2 of the Montana Code Annotated governs, except that the redemption period shall be ninety (90) days, (Doc. 18 at 2–3).

On September 18, 2018, the Court approved the Stipulations and informed the parties that a decree of foreclosure and order of judicial sale would follow. (Doc. 20.) On September 18, 2018, judgment was entered consistent with the Stipulations. (Doc. 21.) The parties are bound by the Stipulations and the Court will make no further findings of fact or conclusions of law. On September 24, 2018, the United States filed a motion for entry of judgment, decree of foreclosure, and order of sale. (Doc. 22.)

IT IS ORDERED that the United States' motion, (Doc. 22), is DENIED IN PART and GRANTED IN PART. The United States' motion for entry of

judgment is DENIED as MOOT. The United States' motion for decree of foreclosure and order of sale is GRANTED as follows:

1. The leasehold estate ("Leasehold") owned by the Morigeaus in the real property located at Tract No. 203-T-2556, in the County of Lake, State of Montana, on the Flathead Indian reservation ("Leased Property") is foreclosed.

The Leased Property is more particularly described as follows:

Lot 3 of the Mountain View Homesites located in Section 17, Township 22 North, Range 19 West, P.M.M. Lake County, Montana containing 2.5 acres, more or less.

2. The following are barred and foreclosed of, and from, all rights, title and interest in the Leasehold: (a) all defendants, together with each and every person or entity claiming under them, (b) all persons claiming any lien or encumbrance of any kind or character upon, or against, the Leasehold, that is subsequent in time or priority, or both, to the United States' lien, and (c) any and all persons claiming to have acquired any right, title, or interest in, and to, the Leasehold subsequent to the filing of this action.

3. The Leasehold shall be sold at a public auction by the U.S. Marshal for the District of Montana in the manner provided by law and according to the following conditions:

a. The Leasehold shall be sold in one unit.

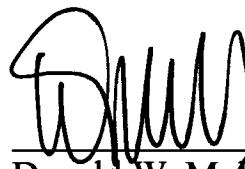
- b. The Leasehold shall be sold or transferred at auction only to a member of the CSKT, the CSKT, or the Indian housing authority serving the CSKT, pursuant to 12 U.S.C. § 1715z-13a(h)(2), or the Secretary of Housing and Urban Development, pursuant to the Rider for Section 184 Mortgage Leasehold, (Doc. 1-3 at 27).
- c. The Morigeaus shall have ninety (90) days to exercise their right of redemption, pursuant to § 4-1-104(2) of the CSKT Laws Codified.
- d. Any purchaser at the foreclosure sale, other than the Secretary of Housing and Urban Development, shall obtain the CSKT's written consent, pursuant to the Rider for Section 184 Mortgage Leasehold, (Doc. 1-3 at 27). The purchaser shall receive a new lease or an assumption of the existing lease, as described in the Rider for Section 184 Mortgage Leasehold, (*id.*), at the expiration of ninety (90) days from the date of sale, unless the Leasehold is redeemed as provided by law.

4. The U.S. Marshal for the District of Montana shall retain from the sale proceeds any fees, disbursements, and expenses to which the Marshal is entitled by law, then disburse the remaining proceeds as follows:

- a. First, to the United States to satisfy the judgment, (Doc. 21), entered on September 18, 2018,

b. Then, to the Clerk of Court for distribution according to further
order of the Court. (*See* Doc. 17 at 3.)

DATED this 21 day of October, 2018.


Donald W. Molloy, District Judge
United States District Court

